

FLORIDA HAZARDOUS WASTE FACILITY SITING PROVISIONS

Topics

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Relevant Statutes and Regulations:

P	403.723	Siting of Hazardous Waste Facilities
P	403.78 through 403.7895	Statewide Multipurpose Hazardous Waste Facility Siting Act
P	83-310, Section 37	Siting of a Multipurpose Hazardous Waste Facility by the State
P	62-730.180(1) and 62-730.220(g)(9)	Portions of the State's Hazardous Regulations
G	http://www.dep.state.fl.us/siting/lawruler.htm	contains laws and rules for the siting programs

Web Address for the State Environmental Agency:

G	http://www.dep.state.fl.us/
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Florida Hazardous Waste Facility Siting Provisions

Affected Facilities:

- P Statewide Multipurpose Hazardous Waste Facility Siting Act procedures apply only to those sites selected by the State for which the State Environmental Regulation Commission has selected a contractor to build and operate the facility. Note that the permitting process is the same as the Federal process including the siting criteria; however, due to potential public opposition, an individual will likely consider the siting criteria developed under the Statewide Multipurpose Hazardous Waste Facility Siting Act when choosing a site. These requirements are not limited to any facility type and include all facilities managing hazardous waste which store, treat, or dispose of that waste.
- P The special requirements for incinerators found at 403.7895 apply to commercial hazardous waste incinerators for which a permit or certification was not issued prior to May 12, 1993. Note an incinerator cannot be located in the State until the Governor issues a certification of need. The Governor will do this based on a needs study done by the State Environmental Protection Department that has not been finalized as yet.

Definitions of Facility Types:

- P "Statewide multipurpose hazardous waste facility" means a hazardous waste management facility which stores, treats, or disposes of hazardous waste. Note that 62-733.001(2) specifically states that such facilities can be a treatment or storage facility, but not a hazardous waste landfill.
- P "Commercial Hazardous waste incinerator" means a hazardous waste incinerator that accepts waste generated offsite.

Definition/Explanation of Other Relevant Terms

"Certification" constitutes the sole license of the State and any agency as to the approval of the location of the project and for the construction, operation, and maintenance of the project except for permits issued under the air or the NPDES, or RCRA program. The site certification authorizes the applicant to locate, construct, operate, and maintain the project subject only to the conditions of the certification. The certification may include conditions which constitute variances and exemptions, otherwise allowed by law, from nonprocedural standards or regulations of the Department or any other agency that were expressly considered during the proceeding unless waived by the agency as provided in 403.78-403.7893 and would otherwise be applicable to the location, construction, operation or maintenance of the project. The certification shall be in lieu of any license, permit, certificate or similar document required by any agency pursuant to, but not limited to many chapters, including the one addressing hazardous waste. No term or condition of a site certification shall be interpreted to supersede or control the provisions of a final permit issued pursuant to a federally delegated or approved permit program. ([403.789]) In the event any terms and conditions of any permit issued pursuant to a federally delegated or approved permit program are modified under the requirements of the program and the modified permit conflicts with the terms and conditions of the site certification, the terms and conditions of the permit shall control and the site certification shall be deemed modified to incorporate the permit requirements. ([403.7891(3)])

Florida Hazardous Waste Facility Siting Provisions

Topic	Stage	State citation [*]	Provision
ADMINISTRATION			
STATE ADMINISTERING AGENCY			
Florida Department of Environmental Protection (the Department)	PA	<i>[403.723(3)]</i>	! Responsible for notification of local governments and for publication in a newspaper of general circulation in the area within 30 days after a complete permit application has been received.
	PA	<i>[403.783]</i>	! Relative to the Statewide Multipurpose Hazardous Waste Facility Siting (SMHWFS) Act, the Department has the following responsibilities: <ul style="list-style-type: none"> - To make findings or make or contract for studies of certification (which is a written order of the board approving an application) applications on matters within the department's jurisdiction. - To administer the processing of applications for certification and ensure that the applications are processed as expeditiously as possible. - To require the payment of fees as specified in the SMHWFS Act. - To provide public notice of the filing of the application and of the proceedings conducted pursuant to the SMHWFS Act. - To prescribe the means for monitoring the effects arising from the location, construction, operation, and maintenance of the project to assure continued compliance with the terms of the certification. - To present rebuttal evidence at the certification hearing.

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Florida Hazardous Waste Facility Siting Provisions

Topic	Stage	State citation ²	Provision
The Department (continued)	NA	<i>[83-310, Section 37(2)& (3)]</i> ;	! Within 12 months after the effective date of the SMHWFS Act, the Department must develop and adopt criteria for the siting of a multipurpose hazardous waste facility in Florida. Such criteria must be designed to prevent any significant adverse transportation, land use, and economic impacts resulting from the location or operation of this hazardous waste facility and must be based on the identified needs in the State. The Department shall also develop a list of potential state hazardous waste facility sites. The Department must seek information from interested persons, including the waste management industry, in order to properly develop the criteria. Once developed, the criteria shall be sent to known, qualified hazardous waste facility owners/operators in the nation with an inquiry relative to their interest in operating a multipurpose facility in Florida. Those interested parties shall be requested to participate by selecting sites on which they would propose to locate and operate a facility in the state, submitting those sites to the department for consideration.
	PA	<i>[403.785]</i>	! Within 7 days after receipt of a certification application, whether complete or not, the Department must request the Division of Administrative Hearings to designate a hearing officer to conduct the hearing required by the SMHWFS Act. Upon being advised that a hearing officer has been appointed, the Department must immediately file a copy of the application and all supporting documents with the hearing officer, who will docket the application. All other time limits in the SMHWFS Act shall be determined from the date of this filing with the Division of Administrative Hearings.

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Topic	Stage	State citation [*]	Provision
The Department (continued)	PA	<i>[403.786(4)&(5)]</i>	<p>! The Department must make findings on the project proposed by the application with regard to, but not limited to, the following:</p> <ul style="list-style-type: none"> - The potential for compliance of the project with Department standards relating to water quality, air quality, fish and wildlife, and cultural resources. - Compliance of the project with any other applicable agency standards, including criteria established pursuant to s. 37 of chapter 83-310, Laws of Florida. - Whether a workable plan can be developed for transporting hazardous wastes to a multipurpose facility, particularly from small-quantity generators and very-small-quantity generators. - Whether the applicant has adequately addressed the application requirements of <i>403.7841(1)</i>. <p>The Department must prepare a report on the findings relative to the above and give a recommendation as to the disposition of the application and any proposed conditions of the certification which the Department believes should be imposed. This report must be submitted to the appointed hearing officer within 135 days after the filing of the application with the Division of Administrative Hearings. This report must also address relevant issues raised by and comments received from any agency that must submit a report as per <i>403.785(1)</i>.</p>
	PA	<i>[403.7891(2)]</i>	<p>! The Department may modify a certification without Board action if the Department and the applicant stipulate to the modification.</p>
	NA	<i>[403.7893(3)]</i>	<p>! The Department and the Board have the power to adopt reasonable procedural rules to carry out the SMHWFS Act and provide an efficient, expedited, centrally coordinated, one-stop permitting process.</p>

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The Department (continued)	NA	<i>[403.7895(5)]</i>	! The Department must conduct by November 1, 1994 (or the date by which phase 2 of the next capacity assurance plan must be submitted to EPA, whichever date occurs first) a comprehensive independent study of the current and future need for hazardous waste incineration in the state. The study must evaluate the projected statewide capacity needs for a 20-year period. The study must be updated at least every 5 years. Upon completion of the study, the Department must present its findings and make recommendations to the Board and the Legislature regarding changes in state hazardous waste policies and management strategies. The recommendations are to address the advisability of establishing by statute the maximum capacity for hazardous waste incineration in Florida.
Environmental Regulation Commission – responsibilities	NA	<i>[83-310, Section 37 (4)]</i>	! As expeditiously as possible, the Environmental Regulation Commission must adopt, pursuant to the Florida Administrative Procedures Act, a site designation for a multipurpose hazardous waste facility in accordance with the siting criteria developed by the Department and the input provided by the parties asked to participate in proposing a site under <i>83-310 Section 37 (3)</i> . Preference is to be given to publicly owned land that meets the established criteria.
	NA	<i>[83-310, Section 37 (6)]</i>	! The Commission shall select a contractor to build and operate the facility. Within 6 months of selection, the contractor shall file an application with the Department pursuant to <i>403.722</i> (statutes for hazardous waste facility permits). If the contractor is denied a permit by the Department, the Commission by a majority vote of the quorum present shall select another contractor within 30 days of the denial. This process shall continue until a contractor is granted a permit by the Department for the construction and operation of a multipurpose hazardous waste facility.
The Division of Administrative Hearings and the hearing officer	PA	<i>[403.785]</i>	! Once notified by the Department that a certification application has been received, the Division Director of the Division of Administrative Hearings has 7 days to designate a hearing officer. The designated hearing officer must give priority to this proceeding and his workload must be adjusted by the Division to facilitate the prompt conclusion of this matter. Once the application and all supporting documents have been received by the hearing officer, he must docket the application.

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	PA	<i>[403.787 (2)]</i>	! The hearing officer must conduct the certification hearing within 180 days after the Department receives the application.
	PA	<i>[403.787 (3)]</i>	! At the conclusion of the certification hearing, the hearing officer must, after consideration of all evidence of record, and with due regard to the criteria and standards set forth in the SMHWFS Act, issue a recommended order disposing of the application no later than 50 days after the transcript of the certification hearing and the public hearings is filed with the Division of Administrative Hearings.
	PA	<i>[403.7873]</i>	! Any time limitations in the SMHWFS Act may be altered by the hearing officer upon stipulation between the Department and the applicant unless objected to by any party within 5 days after notice or for good cause shown by any party.
The Governor and the Cabinet (under the Statewide Multipurpose Hazardous Waste Facility Siting Act, together are known as the "Board") – ability to grant a variance	PA	<i>[403.723(7)-(9)]</i>	! The Governor and Cabinet can grant a variance from any local ordinances, assessments, area and site designations, regulations, or plans when a local government has denied such a variance if: <ul style="list-style-type: none"> - a hazardous waste permit has been issued by the Department and - the Governor and the Cabinet find, based upon competent substantial evidence that clearly and convincingly establishes, that the facility: <ul style="list-style-type: none"> a. will not have significant adverse impact on the environment, including ground and surface water resources, of the region, and b. will not have a significant adverse impact on the economy of the region. <p>The Governor and the Cabinet must also consider the record of the proceeding before the local government.</p> <p>! The Governor and the Cabinet can adopt rules of procedure that govern the proceedings that take place at the local level which relate to siting.</p>

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The Board – approval of certification	PA	<i>[403.788 (1)]</i>	! The Governor and the Cabinet sitting as the siting board (the "Board") give the final order relative to approval of the certification. Within 45 days after receiving the hearing officer's recommended order, the Board must issue a final order, as provided by <u>120.57(1)(b)10</u> , approving the application in whole, approving the application with such modifications or conditions as the Board deems appropriate, or denying the issuance of a certification and stating the reasons for issuance or denial.
	PA	<i>[403.788 (2)]</i>	! In regard to the properties and works of any agency which is a party to the certification hearing, the Board shall have the authority to decide issues relating to the use thereof, the connection thereto, or the crossing thereof for the project and to direct such state agency to execute within 30 days of the entry of certification, the necessary license or easement for such use, connection, or crossing, subject only to the conditions set forth in the certification.
	PA	<i>[403.788 (3)]</i>	! If the Board denies certification, it must set forth in writing the action the applicant would have to take to secure the Board's approval of the application.
	PA	<i>[403.788 (4)]</i>	! In determining whether an application shall be approved in whole, approved with modifications or conditions, or denied, the Board must consider the extent the proposed project will: <ul style="list-style-type: none"> - Ensure adequate capacity for treatment, storage, and disposal of hazardous waste generated in the State; - Meet the hazardous waste treatment, storage, and disposal needs of the State in an orderly and timely fashion; - Comply with the nonprocedural standards of 403.722 pertaining to the permitting of hazardous waste facilities; - Comply with applicable nonprocedural requirements of affected agencies; and - Be consistent with applicable siting criteria.
	PA	<i>[403.788 (6)]</i>	! The issuance or denial of the certification by the Board shall be final agency action. Proceedings under the SMHWFS Act are subject only to judicial review as provided in <u>120.68</u> .

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The Board – ability to incorporate terms and conditions in the certificate	PA	<i>[403.7881]</i>	! The Board is authorized to incorporate such terms and conditions in the certification as it deems appropriate to comply with applicable standards of the Department and other applicable requirements of Chapter 403, including, but not limited to, a timetable for securing necessary funding and commencing and completing construction.
The Board -- revocation of certificate	PA	<i>[403.7891(1)]</i>	! 403.7891(1) states that any certification may be revoked or suspended or additional conditions imposed but, although the Board probably is the entity with this authority, the entity with the authority for the revocation and suspension is not stated. Reasons for revocation or suspension include: <ul style="list-style-type: none"> - Any material false statement in the application or in the supplemental or additional statements of fact or studies required of the applicant. - Failure to comply with the terms or conditions of the certification. - Violation of the SMHWFS Act.
The Board – modifications to certificate	PA	<i>[403.7891(2)]</i>	! The Board may modify any certification on request of the Department or the applicant whenever the applicant proposes, after certification, to significantly expand the size of the facility or to significantly alter the type of hazardous waste management activity conducted at the facility. The Department may modify a certification without Board action if the Department and the applicant stipulate to the modification.
The Board – authority to adopt procedural rules	NA	<i>[403.7893(3)]</i>	! The Department and the Board have the power to adopt reasonable procedural rules to carry out the SMHWFS Act and provide an efficient, expedited, centrally coordinated, one-stop permitting process.
The Board – certificate must be issued before incinerator can be permitted	NA	<i>[403.7895(3)]</i>	! No commercial hazardous waste incinerator shall be permitted or certified in Florida without a certification issued by the Board. This determination of need must be based upon the best available evidence of existing and projected need and available capacity, as presented by the applicant and as determined by the hazardous waste needs and capacity study conducted by the Department. A hazardous waste incinerator cannot be certified for capacity that is larger than that the Board determines is needed. The Board cannot make a determination of need until the Department completes the hazardous waste needs and capacity study.

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The Applicant – responsibilities	PA	<i>[403.7841(1)]</i>	! The applicant must file five copies of the application for the proposed project that include completed application forms and other supporting documentation which would be required by the Department or any other relevant agency or local government to obtain any permit, approval, license, lease, consent of use, or other grant of authority which would have been applicable to the proposed project in the absence of the Statewide Multipurpose Hazardous Waste Facility Siting Act.
	PA	<i>[403.7841(1) &(2)]</i>	! Each application must be completed in a manner consistent with requirements applicable to the relevant permit or authorization. Cross referencing is allowed to avoid duplication of information. The composite application required must include at a minimum: <ul style="list-style-type: none"> - A description of the project including a map showing its location. - The means to be employed to attain compliance of the project with department standards relating to water quality, air quality, fish and wildlife, and cultural resources. - The means to be employed to attain compliance of the project with any other applicable agency standards. - A marketing analysis of the economic viability and economic benefits of the proposed project. - An analysis of transportation corridor impacts related to the proposed facility. - An analysis of the availability of adequate means for transporting hazardous wastes to a multipurpose facility established for the purposes of 403.7841, particularly from small-quantity generators and very-small-quantity generators.

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The Applicant – responsibilities (continued)	PA	[403.7872(3)] [403.7872]	<p>! Within 7 days of filing the application with the Department, the applicant must provide two copies of the application to each of the following:</p> <ul style="list-style-type: none"> - the Department of Community Affairs, - the water management district which has jurisdiction over the area wherein the proposed project is to be located, - the Department of Transportation, - the Game and Fresh Water Fish Commission, - the Department of Health and Rehabilitative Services, - the Department of Agriculture and Consumer Services, and - the local governmental entities which have jurisdiction. <p>! Any amendment to the application shall be sent by the applicant to the hearing officer and to all parties to the proceeding. Any amendment to the application prior to certification must be disposed of as part of the original certification proceeding. Amendment of the application may be considered "good cause" for alteration of time limits.</p>
The Department of Community Affairs, the water management district with jurisdiction over the area for the proposed project, the Department of Transportation, the Game and Fresh Water Fish Commission, the Department of Health and Rehabilitative Services, the Department of Agriculture and Consumer Services, and each local government which has jurisdiction – responsibilities	PA PA	[403.786(1)-(3)&(6)]	<p>! Specified governmental entities each must submit a report of matters within its jurisdiction to the Department within 90 days after its receipt of the certification application. Any other agency may submit comments relating to matters within its jurisdiction to the Department within 90 days after the filing of the application with the Division of Administrative Hearings. Each agency must file 10 copies of its report with the Department and at the same time submit a copy to the applicant, each affected agency and person who has filed a notice of intent to become a party.</p> <p>! Each report must include specific findings regarding variances, compliance or noncompliance on all nonprocedural requirements and any proposed condition of certification within the jurisdiction of the reporting agency. For each finding of noncompliance and each proposed condition, the agency must list the specific statute, rule or ordinance authorizing it. Any nonprocedural requirement not specifically addressed in a report required by 403.786 is waived.</p>

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THE INTERAGENCY COORDINATING COUNCIL			
No provision found.			
INDEPENDENT SITING BOARD			
No provision found.			

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Topic	Stage	State citation*	Provision
LOCAL COMMUNITY NEEDS AND INVOLVEMENT			
LOCAL REVIEW			
County hazardous waste assessment	NA	[403.723(1)]	Each county must complete a hazardous waste management assessment and designate areas within the county at which a hazardous waste storage facility could be constructed to meet demonstrated need.
Regional Planning Council site designation	NA	[403.723(2)]	After each county designates areas for storage facilities, each regional planning council shall designate one or more sites at which a regional hazardous waste storage or treatment facility could be constructed.
Review of proposed site once a complete application has been received by the Department	PA	[403.723 (4),(5)&(6)]	<p>! Upon request by a person who has applied for a hazardous waste facility permit from the Department, the local government having jurisdiction over the proposed site shall, within 90 days of such request, determine whether the proposed site is consistent and in compliance with adopted local government comprehensive plans, local land use ordinances, local zoning ordinances or regulations, and other local ordinances in effect at the time a hazardous waste facility construction or modification permit application is made or is an area or site designated for the purpose of such facility according to the Florida Solid and Hazardous Waste Management Act.</p>
	PA		<p>! If the local government determines within 90 days of the request that construction or modification of the facility does not comply with such plans, ordinances, regulations or area or site designations pursuant to the Florida Solid and Hazardous Waste Management Act, the person requesting the determination may request a variance from such plans, ordinances or designations.</p>
	PA		<p>! The local government can determine whether to allow such a variance. If it is denied or if there is no action on the variance requested by the applicant within 90 days of the request, the person requesting such determination or variance may petition the Governor and Cabinet for a variance from the local ordinances, assessments, regulations, plans or areas and site designations.</p>

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OTHER AGENCY OR GOVERNMENTAL ENTITY INVOLVEMENT			
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Topic	Stage	State citation *	Provision
COMPATIBILITY OF FACILITY SITE WITH LOCAL SOLID WASTE MANAGEMENT PLANS			
Consistency and compliance with local government comprehensive plans and ordinances.		[403.723(4)]	! Within 90 days after request by the permit applicant, the local government with jurisdiction over the proposed site must determine whether the proposed site is consistent and in compliance with adopted local government comprehensive plans, local land use ordinances, local zoning ordinances or regulations and other local ordinances in effect at the time a construction or modification permit application is made.
		[403.723(5)]	! If the local government determines, within 90 days, that construction or modification of the facility does not comply with such plans, ordinances, regulations, or area or site designations, the person requesting the determination may request a variance from such plans, ordinances or designations.
IMPACT OF FACILITY ON LOCAL LAND USE			
See Siting Restrictions and Prohibitions/Other Restrictions for land use siting criteria			

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PUBLIC PARTICIPATION			
The federal regulations regarding the public participation process for the permitting of hazardous waste (RCRA) facilities can be viewed at http://earth1.epa.gov/epacfr40/chapt-I.info/subch-D/40P0124.pdf within the Part 124 Procedures for Decisionmaking. (State regulations cannot be less stringent than the federal counterparts.)			
NOTIFICATION			
Notification after receipt of a complete permit application	PA	62-730.220(9) (a); [403.723(3)]	Within 30 days of receipt of a complete application for a hazardous waste facility construction or modification permit, the Department shall notify each unit of government within 3 miles of the proposed facility that a permit application has been received and must publish a notice in a newspaper of general circulation in the area of the proposed facility that a complete application has been received.
Notification after receipt of an application for certification under the SMHWFS Act	PA	[403.787 (1)(a)]	No later than 15 days after the receipt of an application, the Department must arrange for publication of a notice of the application and the proceedings required under the SMHWFS Act.
Notification of public hearings associated with certification under the SMHWFS Act	PA	[403.787(1) (b)&(c)]	<p>! The Department must arrange for publication of a notice of the certification hearing and other public hearings provided for in 403.787 and notice of the deadline for filing of notice of intent to be a party. Such notices must be published at least 60 days before the date set for the hearing or such other time as necessary to comply with applicable Federal requirements.</p> <p>! The Department must arrange for publication of a reminder notice in the newspapers no more than 2 weeks prior to the certification hearing, reminding the public of the date and location of the hearing. This notice does not constitute a point of entry for intervention in the proceeding.</p>

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Overall requirements for notification	PA	<i>[403.787(1)(d)&(e)]</i>	<p>! Notices must be published:</p> <ul style="list-style-type: none"> - by newspaper notice as provided by chapter 50, within the county in which the project is proposed to be sited, - in the Florida Administrative Weekly, and - by giving notice to any persons who have requested to be placed on the Departmental mailing list for this purpose. <p>! All published notices must be paid for by the applicant and are in addition to the application fee. The Department must arrange for publication of all notices required by 403.787.</p>
Notification of intent to issue permit	PA	62-730.220(9)(b) & (c)	<p>! Within 135 days after receipt of original permit application, the last item of timely requested additional information, or the applicant's written request to begin processing the application, the Department must send to the applicant, by certified mail, a copy of the Department's intent to issue or deny the permit, and, in the case of intent to issue, a request for publication and broadcast of the notice of the proposed permit issuance. The Department shall also transmit a written notice of the Department's intention to issue the permit to each unit of local government having a jurisdiction over the area in which such facility is or will be located.</p> <p>! Within 30 days of receipt of the Department's request to issue notification, the applicant must publish in a major newspaper or newspaper of general circulation and broadcast over a local radio station or stations notice of the Department's intention to issue the permit. The applicant must provide the Department with proof that the publication and broadcast took place within 14 days that the applicant receives proof of publication, but not later than 45 days after the applicant receives the Department's Intent to Issue.</p>
Notification of Public Hearing for Issuance of Permit	PA	62-730.220(9)(d)	The Department shall provide at least 30 days public notice prior to the holding of a hearing or meeting held in response to a written notice of opposition received within 45 days after publication and broadcast of notice of an intent to issue.

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Topic	Stage	State citation ²	Provision
PUBLIC MEETING			
Certification Public Meetings	PA	<i>[403.7871]</i>	<p>! At the request of any affected local government, the Department shall conduct one public meeting regarding the certification application to assure that there is substantial input from the affected community in order to:</p> <ul style="list-style-type: none"> - receive public input on matters within the jurisdiction of the local governments, and - formulate recommendations with respect to the project. <p>! If more than one local government requests that a public meeting be conducted, scheduling must be coordinated such that only one public meeting will be held.</p> <p>! The public meeting must be held in a locality affected by the proposed project.</p>

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Florida Hazardous Waste Facility Siting Provisions

Topic	Stage	State citation ²	Provision
PUBLIC HEARINGS			
Certification hearing	PA	<i>[403.787 (2)]</i>	! No later than 180 days after receipt of an application by the Department, the hearing officer must conduct the certification hearing pursuant to s. 120.57(1) , at a central location in proximity to the proposed project. The certification hearing must be completed within 60 days of commencing the hearing unless a longer time is necessary to afford the parties due process of law.
	PA	<i>[403.787(4) (a)]</i>	! Parties to the proceeding are: <ul style="list-style-type: none"> - the applicant, - the Department, - the Department of Community Affairs, - the Game and Fresh Water Fish Commission, - each water management district in the jurisdiction of which the proposed project is to be located, - any affected local government, and - other parties as listed at 403.787(4)(c)&(d).
	PA	<i>[403.787(4) (b)]</i>	! If any person, including the above-listed parties, fails to file a notice of its intent to be a party on or before the 30th day prior to the certification hearing, such person shall be deemed to have waived its right to be a party unless its participation is necessary to satisfy statutory requirements or to afford due process of law.
	PA	<i>[403.787 (5)]</i>	! At an appropriate time during the hearing, any person who is not a party may be given an opportunity to present oral or written communication to the hearing officer. All parties shall be given an opportunity to cross-examine, challenge, or rebut such communications.
	PA	<i>[403.787 (6)]</i>	! The hearing officer shall have all powers and duties granted to hearing officers by chapter 120 and by the laws and rules of the Department.

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Florida Hazardous Waste Facility Siting Provisions

Topic	Stage	State citation ²	Provision
Certification hearing (continued)	PA	<i>[403.787 (7)]</i>	! In the event of conflict between the permitting procedures of any federally delegated or approved permit program, or the procedures specified in 403.0872 or 403.0885 and the site certification process, the permit application shall be processed according to the specific permitting procedure required for that permit.
	PA	<i>[403.787 (3)]</i>	! At the conclusion of the certification hearing, the hearing officer shall, after consideration of all evidence of record and with due regard to the criteria and standards set for the SMHWFS Act, issue a recommended order disposing of the application not later than 50 days after transcript of the certification hearing and the public hearings is filed with the Division of Administrative Hearings.
Permit Approval Hearing	PA	62-730.220(9) (d)	! If, within 45 days of public notice of intent to issue, the Department receives written notice of opposition to the Department's intention to issue a permit and a request for a public hearing, the Department shall provide for such a hearing, if the request is from a substantially affected party. The Department shall provide for an informal public meeting if the request is received from any other person. Failure to request a public hearing within the 45-day period constitutes a waiver of the right to a hearing.
ADJUDICATORY HEARINGS			
No provision found.			
OTHER			
No provision found.			

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Florida Hazardous Waste Facility Siting Provisions

Topic	Stage	State citation [*]	Provision
SITING RESTRICTIONS AND PROHIBITIONS			
Federal siting restrictions and prohibitions can be viewed at http://www.epa.gov/epacfr40/chapt-I.info/subch-I/ by selecting “Part 264 (Updated 1997) - Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities”. The regulatory requirements are in Location Standards at 264.18 in the document. (State regulations cannot be less stringent than the federal counterparts.)			
SEISMIC CONSIDERATIONS			
Seismic (part of permit process, only)	PA	62-730.180(1) [40 CFR 264.18(a)]	Same as Federal requirements, i.e., facilities cannot be located within 200 ft. of a fault which has had displacement in Holocene time.
FLOODING AND EROSION			
Floodplains (part of permit process, only)	PA	62-730.180(1) [40 CFR 264.18(b)]	Same as Federal requirements, i.e., if located in a 100-year floodplain, facility must be designed, constructed, operated and maintained to prevent washout of any hazardous waste by a 100-year flood, unless owner/operator can demonstrate as specified.
AIR			
No provision found.			
DISTANCE LIMITATIONS FOR PROTECTION OF HUMAN HEALTH/BUFFER ZONES			
Seismic	PA	62-730.180(1) [40 CFR 264.18 (a)]	Same as Federal requirements, i.e., facility cannot be located within 200 ft. of a fault which has had displacement in Holocene time.

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Florida Hazardous Waste Facility Siting Provisions

Topic	Stage	State citation ¹	Provision
OTHER HUMAN HEALTH CONSIDERATIONS			
Cumulative health and environmental impacts (applies only to certification process)	PA	<i>[403.7895(4)(a)]</i>	The Department, in review of an application for certification or a permit to construct a commercial hazardous waste incinerator, must consider cumulative impacts upon human health and the environment which would result from toxic air emissions from stationary air pollution sources which are existing, under construction, or for which a permit, certification or determination of need by the Florida Public Service Commission has been sought, in the area in which the proposed facility is to be built. The Department shall require the submission of information concerning cumulative health and environmental impacts in a permit or certification application.
ENVIRONMENTALLY SENSITIVE AREAS			
Endangered Species (Plants/Animals)			
No provision found.			
Critical Habitats			
No provision found.			
Wetlands			
No provision found.			

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Florida Hazardous Waste Facility Siting Provisions

Topic	Stage	State citation ¹	Provision
Wild, Scenic or Recreational Areas			
No provision found.			
Approved Farmland Preservation Areas			
No provision found.			
Other			
No provision found.			

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Florida Hazardous Waste Facility Siting Provisions

Topic	Stage	State citation ²	Provision
OTHER RESTRICTIONS			
Land Use Siting Criteria (applies only to certification process)	NA/PA	62-733.030	<p>! The objective of land use siting criteria is to minimize conflict with existing, committed, proposed and planned land use.</p> <p>! The site must be considered for consistency with the land use element of the local comprehensive plan adopted pursuant to Chapter 163, Florida statutes.</p> <p>! Consideration must be given the current residential and non-residential population density adjacent to the proposed site and to population projections for such areas.</p> <p>! The land use criteria which the Department must consider include, but are not limited to:</p> <ul style="list-style-type: none"> - The distance from the site boundary to existing structures. - Buffer zones surrounding the site. - Parks and historical sites. - Public lands - Other land use criteria including potential effects on natural, scenic, historic, aesthetic or environmentally sensitive areas such as well fields, recharge areas, or surface waters, may be evaluated by the Department for proposed sites in some locations. In those instances, the Department will identify those additional criteria used in the site selection process.

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Florida Hazardous Waste Facility Siting Provisions

Topic	Stage	State citation [*]	Provision
ENVIRONMENTAL JUSTICE CONSIDERATIONS			
No provision found.			
ECONOMIC CRITERIA			
Marketing Analysis (applies only to certification process)	NA/PA	<i>[403.7841(1)(d)]</i>	As part of the application for certification under the Statewide Multipurpose Hazardous Waste Facility Siting Act, the applicant must submit a marketing analysis of the economic viability and economic benefits of the proposed project.
Economic siting criteria (applies only to certification process)	NA/PA	62-733.040	<p>! The objective of the economic criteria is to maximize compatibility with the area's local and regional economic character.</p> <p>! The short- and long-term financial effects of the addition of the proposed facility to the host community must be considered. Both the economic incentives and benefits which will accrue to the municipality and the added burden of providing services to the facility are important factors.</p> <p>! The economic criteria that the Department will consider include, but are not limited to:</p> <ul style="list-style-type: none"> - Changes in tax revenues to the municipality. - Potential job opportunities to the community. - Sewer, water and electrical service to proposed site. - Adequacy of local fire, health, public safety and police services. - Changes in real estate values.

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Florida Hazardous Waste Facility Siting Provisions

Topic	Stage	State citation*	Provision
OTHER CRITERIA			
Transportation Corridor Analysis (applies only to certification process)	NA/PA	<i>[403.7841(1)(e)&(f)]</i>	As part of the application for certification under the Statewide Multipurpose Hazardous Waste Facility Siting Act, the applicant must submit an analysis of the transportation corridor impacts related to the proposed facility as well as an analysis of the availability of adequate means for transporting hazardous materials to a multipurpose facility, particularly from small-quantity generators and very-small-quantity generators.
	NA/PA	62-733.020 (1)-(3)	<p>! The objective of the transportation criteria is to select transportation routes and modes which provide safe access to and from the facility.</p> <p>! Hazardous waste should be transported on interstate, state or county highways, free of obstructions and with a high degree of visibility. No hazardous waste is to be transported on roads where the weight restrictions for it or for any bridge will be exceeded. Siting a facility close to major transportation corridors for short haulage is desirable so as to reduce safety risks, provide greater economic capacity and minimize transportation costs.</p>
	NA/PA	62-733.020(4)	<p>! The transportation criteria which the Department must consider include, but are not limited to:</p> <ul style="list-style-type: none"> - Consideration of any existing local or state transportation plan. - The width, condition, and type of roadway providing access to the facility. - The type of development along transportation routes. - The type and size of vehicles or vessels expected to be hauling waste to and from the site. - Transportation restrictions (traffic intersections, traffic/railroad intersections, tunnels, bridges) along the proposed route. - Alternate emergency access to the site. - The transportation means and routes available to evacuate the population at risk in event of a major accident, including both spills and fires.

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